

## Remarks

Applicants respectfully request reconsideration of the present U.S. Patent application as amended herein. Claims 1, 7 and 13 have been amended. No claims have been added or canceled. Thus, claims 1-18 are pending.

### CLAIM REJECTIONS – 35 U.S.C. § 103(a)

Claims 1-5, 7-11 and 13-17 were rejected as being unpatentable over U.S. Patent No. 6,185,623 issued to Bailey (*Bailey*) in view of U.S. Patent Publication No. 2008/0168157 of Marchand (*Marchand*). For at least the reasons set forth below, Applicants submit that claims 1-5, 7-11 and 13-17 are not rendered obvious by *Bailey* and *Marchand*.

Claim 1 recites:

receiving, with a server device, a request from a first client device to download a file to be transmitted as a plurality of packets of data from the server device;

multicasting the plurality of packets of data from the server device to multiple client devices using a first transmission protocol that comprises a non-reliable multicast transmission protocol, wherein the multiple client devices include at least the first client device;

continuing to participate in the multicast download after an error if a file size is unknown and a last packet has not been successfully received; and

requesting, when the first client has completed download of the file, from the server device with a second client device from the multiple client devices packets of data not received by the second client device, wherein in the request utilizes a second transmission protocol that comprises non-multicast reliable protocol, if the file size is known and the total size of the lost packets is less than a pre-selected amount.

Thus, Applicants claim transmitting a file as a plurality of data packets via a first, non-reliable multicast protocol. After the requesting client has received the file, another client

requests missing packets using a second, non-multicast reliable protocol if the file size is known and the total size of the lost packets is less than a pre-selected amount.

Independent claims 7 and 13 recite similar limitations.

*Bailey* discloses use of a multicast protocol. Applicants agree with the Office Action that *Bailey* fails to teach or suggest use of a reliable protocol. *Marchand* discloses multicast in multiple stages. That is, *Marchand* teaches splitting of multicast transfer and recovery transfer. See paragraph 0053, as cited by the Office Action. Retransmission is accomplished by a slave process forked from the master process managing the multicast transmission.

Once a file transfer master is selected to perform the multicast file transfer, it forks a child process to take over the multicast (or broadcast) transfer phase, allowing a single file transfer master to handle multiple transfer requests simultaneously. The child process then forwards all file fragments over the network to pre-determined communication port for the benefit of all participating file transfer slave processes. Active file transfer slaves pick up the file fragments from the network and write them at their appropriate location in the target replicated file.

See paragraph 56. *Marchand* provides no teaching of differing protocols. Further, if there is some implication as to retransmission protocols, the conditions recited in the claims are not taught by *Marchand*. Therefore, neither *Marchand* nor *Bailey*, alone or in combination, can teach or suggest the use of two protocols in the manner recited in the claims.

Claims 2-5 depend from claim 1. Claims 8-11 depend from claim 7. Claims 14-17 depend from claim 13. Because dependent claims include the limitations of the claims from which they depend, Applicants submit that claims 2-5, 8-11 and 14-17 are not rendered obvious by *Bailey* and *Marchand* for at least the reasons set forth above.

Claims 6, 12 and 18 were rejected as being unpatentable over *Bailey* and *Marchand* and further in view of U.S. Patent No. 6,983,334 issued to Riedle (*Riedle*). For at least the reasons set forth below, Applicants submit that claims 6, 12 and 18 are not rendered obvious by *Bailey*, *Marchand* and *Riedle*.

*Riedle* is cited to teach a second device that tracks gaps within a requested file and the size of the packet gaps. See Office Action at page 7. However, *Riedle* does not cure the deficiencies of *Bailey* and *Marchand* as set forth above. Therefore, no combination of *Bailey*, *Marchand* and *Riedle* can teach or suggest the invention as recited in claims 6, 12 and 18.

#### CONCLUSION

For at least the foregoing reasons, Applicants submit that the rejections have been overcome. Therefore, claims 1-18 are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application. Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,  
**BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP**

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/Paul A. Mendonsa/  
Paul A. Mendonsa  
Attorney for Applicant  
Reg. No. 42,879

12400 Wilshire Boulevard  
Seventh Floor  
Los Angeles, CA 90025-1026  
(503) 439-8778